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1. Trump scrapped leasing moratorium, but demand has shrunk

Dylan Brown, E&E News reporter

Published: Tuesday, August 29, 2017

One of the Trump administration's first acts this year was to end a moratorium on coal leasing to appease an industry that rallied behind the new president.

But six months later, the number of company applications to extract federal reserves and the amount of public coal in play have dropped, according to Bureau of Land Management records.

The president campaigned on reviving coal's fortunes by stripping Obama-era restrictions, but despite a modest overall mining comeback, leasing has yet to pick up.

Neither coal companies nor their critics are surprised as an industry fresh off a historic downturn adjusts to a new, smaller normal.

But the BLM numbers puncture the argument from the president and his defenders that the Obama administration's three-year moratorium — meant to allow the Interior Department to study reforms — wrought havoc on mining communities.

Since March 29, when Interior Secretary Ryan Zinke officially reversed the ban, the number of pending leases and lease modifications has fallen from 41 to 40.

The amount of coal under consideration for lease dropped from 2.8 billion tons to 2.4 billion tons, BLM records show.

In March, Zinke promised to process lease requests "expeditiously" (***Greenwire***, March 20). However, nearly two-thirds of the coal that remains in play is — as it was six months ago — tied to applications that companies asked to put on hold, waiting for better market conditions.

In six months, the mining industry has filed only one new lease application. Peabody Energy Corp. is requesting 4.1 million tons of federal coal to expand its Twentymile mine in Colorado.

By contrast, companies have withdrawn four pending leases totaling 435 million tons. The biggest was for 253 million tons tied to Contura Energy Inc.'s Belle Ayr mine. Contura, a spinoff of Alpha Natural Resources Inc.'s bankruptcy, has controlled the Wyoming site since last year.

With roughly 20 years of coal at current production levels already under lease, Contura declined to pursue the application when **asked** by BLM in June.
After a similar agency inquiry related to the nearby Buckskin mine in May, Kiewit Corp. **withdrew**a 167-million-ton application. The company had waited three years "in hopes that the coal market would improve."

Companies have not only backed out of pending applications. They have also relinquished coal that was already under their control.

Arch Coal Inc., for example, let go of 65 million tons after DKRW Advanced Fuels LLCabandoned a plan to turn coal into liquid fuel (***Greenwire***, June 21, 2016).

'Ban was devastating'

The leasing contraction follows the crash in U.S. coal production from more than 1 billion tons nationwide in 2014 to 728.2 million in 2016, largely driven by cheap natural gas fueling more power plants.

With more than 90 percent of U.S. coal burned for electricity, the power shift has had a particular effect on leasing because federal coal — roughly 40 percent of the national total — almost exclusively generates electricity.

The Powder River Basin of Wyoming and Montana, the source of nearly 90 percent of all federal coal, has been especially hard hit. Since 2012, BLM has not leased a single ton of coal in Wyoming, the nation's top coal mining state.

Despite the weak demand, when the Obama administration imposed its moratorium in January 2016, the Wyoming delegation led the revolt in Congress.

"This ban was devastating," Rep. Liz Cheney (R-Wyo.) said on behalf of her bill to require congressional approval for all future moratoriums (***E&E Daily***, July 28).
Acting BLM Director Michael Nedd made a similar case to support Zinke killing the Obama administration review and setting aside a report suggesting the leasing program needed reform (***Greenwire***, Jan. 12).
In a March **memo** obtained by the anti-coal-leasing group WildEarth Guardians, Nedd wrote that although former Interior chief Sally Jewell "believed that the public and the coal program would benefit from imposing the leasing moratorium" pending scrutiny, "that benefit is outweighed by the economic hardship placed on the industry."

Federal data, however, suggest the moratorium had little or no impact on leasing.

The moratorium did not apply to already-approved applications, but with demand low, BLM only offered one tract: 56.6 million tons in Utah.

The Greens Hollow offering was approved during the Obama presidency, but Zinke got to finalize the sale and hailed it as "a sign of optimism."

Since then, the administration has approved one lease for Lighthouse Resources Inc. to access 9.2 million tons of coal to expand its Black Butte mine in Wyoming.

Why?

"There are enough leases out there to go at least another decade without anybody having to lease any more coal," said Wood Mackenzie Research Director Daniel Rusz.

In 2010, major companies stocked up by leasing more than 2 billion tons of coal. And when it issued the moratorium, Obama's Interior made the case that 20 years' worth of coal was already under lease.

Mining firms blasted the justification, arguing it ignored the need for so-called maintenance leases to keep mines functioning.

'Ended the witch hunt'

Bucking the negative trend, despite posting a $27.1 million loss thus far this year, Cloud Peak Energy Inc. welcomed the chance to resume pursuing leases near its three mines, all in the Powder River Basin.

"Rescinding the [moratorium] ended the witch hunt begun by Secretary Jewell [and] rebuked the fake economics used to justify it," Cloud Peak spokesman Rick Curtsinger said.

Rusz said companies are starting the leasing process much further in advance because environmentalists have turned every step into a dogfight. Greens Hollow took more than a decade to sell.

"The federal coal resource is enormously valuable for energy security, and its value shouldn't be assessed by today's market or today's headlines," National Mining Association spokesman Luke Popovich said.

Among the pending applications are two leases that have been approved only to be challenged by "keep it in the ground" champions WildEarth Guardians.

The group is gearing up to fight two leases Interior has put out for public comment under Trump: Cloud Peak's application to expand its Antelope mine and Peabody's Colorado request. WildEarth Guardians is also taking issue with the administration's most recent approval at Black Butte.

"We are very concerned that BLM is going to be short-cutting its analysis and public involvement and that we could see these leases railroaded through," WildEarth Guardians climate and energy campaigner Jeremy Nichols said.

'As natural gas prices go ...'

The battle goes on, but the moratorium was largely irrelevant, Rusz said.

"There hasn't been any near-term need to get any new leases, in the Powder River Basin that is, and so it really hasn't had that much impact at all for planning purposes," he said.

Peabody's North Antelope Rochelle mine and Arch's Black Thunder site — both of which mine 15 percent of U.S. coal — have enough fuel locked down to last them until at least 2030, said Wood Mackenzie analyst Gregory Marmon.

"There are very few companies that need coal leases after that," Marmon said.

Wood Mackenzie forecasts that after a short reprieve in the next few years, production will start to fall as natural gas prices decline further early in the next decade.

"On the coal side, particularly [the Powder River Basin], everything kind of centers, more than anything, on natural gas prices," Rusz said. "As natural gas prices go, so does coal production."

Wood Mackenzie says mines that produce coal with less energy content will be the hardest hit by lower gas prices. Sites that can product 8,800 British thermal units per pound, like North Antelope Rochelle and Black Thunder, will be better off than Contura's Belle Ayr mine, whose coal generally produces 8,400 Btu per pound.

Nichols said the Trump administration has undertaken a "Sisyphean" task. "They want to resuscitate the coal industry, but the coal industry is too far gone," he said.

In February, then-acting BLM Director Kristin Bail was looking at how to "spur coal mining" in the U.S. but said there was only so much the government could do, according to another **memo**obtained by WildEarth Guardians.

"Federal coal leasing is demand-driven, and invigoration of Federal coal leasing depends to a large extent on the national coal markets for electrical generation, a factor beyond the control of the BLM," she said.

Nichols said, "At the end of the day, the metrics that matter are whether you are leasing coal. And if this administration isn't leasing coal, then they are failing."

http://bit.ly/2x1qTvR

2. Bruce Babbitt dings Trump admin over review

Jennifer Yachnin, E&E News reporter
Published: Tuesday, August 29, 2017

Former Interior Secretary Bruce Babbitt criticized the Trump administration for keeping under wraps the findings of its review of dozens of national monuments, urging current Secretary Ryan Zinke to "open up the process."

In an interview with E&E News, Babbitt, who serves on the board of the Conservation Lands Foundation, expressed disappointment with the Interior Department's review of 27 national monuments.

Although Zinke wrapped up a 120-day assessment of those sites last week, the Interior Department characterized his recommendations as a "draft" and has refused to publicly detail which sites are being targeted for reductions.

Former Interior Secretary Bruce Babbitt. Interior Department/ Wikipedia

"I don't understand why this is being done with such secrecy. It's hard to respond when they're hiding the ball," said Babbitt, who served two terms as Arizona's governor before joining the Clinton administration. "We need some transparency. The public is entitled to know what's going on."

A White House official told E&E News last week that the president needs time to review the report because "additional questions and issues" need to be studied before any decisions are made. The official said yesterday that no timeline has been set for the review's release.

Ahead of the review's completion, Zinke had already indicated that he would not recommend changes to six national monuments but would call for significant reductions to the 1.35-million-acre Bears Ears National Monument in Utah.

But Interior has refused to confirm details on other sites that could face changes, referring inquiries to the White House.

Nonetheless, people familiar with the review have indicated that numerous sites face potential boundary adjustments.

Nevada Sen. Dean Heller (R) told the *Las Vegas Review Journal* yesterday that Zinke had told him "minor" changes will be made to both the Basin and Range and Gold Butte national monuments in his state.

"There will be some adjustments to both of those monuments, but they will be minor," Heller said. "You're not going to see wholesale changes in those monuments."

The Washington Post reported that both the Grand Staircase-Escalante National Monument in Utah and the Cascade-Siskiyou National Monument in Oregon and California would also face changes.

But Babbitt said he expects court challenges will hold up the monuments' current boundaries, asserting that while the Antiquities Act of 1906 allows presidents to create sites, it does not similarly permit them to reduce the boundaries.

"If this administration really wants to do this properly, they could, No. 1, be transparent, and No. 2, send a request to the Congress," Babbitt said, referring to Congress' exclusive power to manage public lands under the Constitution's Property Clause.

Although presidents have reduced the size of some monuments — President Kennedy was the last to do so when he modified Bandelier National Monument in New Mexico — all those decisions occurred before the enactment of the Federal Land Policy and Management Act of 1976, a change that legal scholars have suggested outlawed future reductions.

"In the past, there has never been a challenge, and there clearly will be this time," Babbitt said. "The courts have not ruled on this, and those past presidential modifications, apparently they were generally acceptable because no challenges were filed."

Babbitt is familiar with the legal fights over monuments, particularly the Grand Staircase-Escalante in Utah that was created during his tenure.

"I believe that the Grand Staircase-Escalante has been repeatedly reviewed and settled," Babbitt said.

He pointed to the complex land exchange he brokered with then-Utah Gov. Mike Leavitt (R).

Under the agreement, congressional lawmakers paid $50 million to Utah and granted the state about 145,000 acres, including lands now within the Kodachrome Basin State Park. The deal also added nearly 400,000 acres of state lands to the monument (***Greenwire***, May 2).

"I believe in the process of making those boundary changes, it was clearly an affirmation by Congress on the settled status of the monument," Babbitt said. "Those facts add up to, in my judgment, a ratification by both the state of Utah and the United States Congress."

Utah District Judge Dee Benson also ruled in 2004 that Clinton was within his rights to create the Utah monument, rejecting a challenge to the Antiquities Act, and the 10th U.S. Circuit Court of Appeals upheld that decision in 2006 (***Greenwire***, Aug. 25).

Babbitt added that he is "disappointed" about the current review: "The fact is, these issues have been discussed."

Echoing Democratic lawmakers including Arizona Rep. Raúl Grijalva, the top Democrat on the House Natural Resources Committee, Babbitt asserted that the review is at the behest of the energy industry, noting that President Trump has vowed to expand fossil fuel extraction on public lands (***Greenwire***, Aug. 23).

"The only conclusion I can draw is this is being driven mainly by the oil and gas industry and the fossil fuel industry," Babbitt said. "There are plenty of public lands available ... for federal leases for oil and gas and coal. There's no lack of lands."

He added: "Everybody would feel a lot better if this weren't being conducted in secret negotiations with resource companies and if the secretary would simply turn to the United States Congress."

But Zinke defended his efforts when releasing the report, saying his recommendations "will maintain federal ownership of all federal land and protect the land under federal environmental regulations, and also provide a much-needed change for the local communities who border and rely on these lands for hunting and fishing, economic development, traditional uses, and recreation."

http://bit.ly/2vpriZg

3. Former NPS officials urge Zinke to halt leasing near parks

Scott Streater, E&E News reporter
Published: Tuesday, August 29, 2017

A coalition of former National Park Service officials is asking Interior Secretary Ryan Zinke not to issue any oil and natural gas leases near national park units and to instead continue to follow Obama-era onshore energy development reforms.

The two-page **letter**, signed by more than 350 former NPS employees and circulated by the Coalition to Protect America's National Parks, also claims that the Bureau of Land Management has decided not to complete work on any new "master leasing plans" in Utah.

MLPs, which are intended to guide oil and gas drilling to areas with the least natural resource and cultural conflicts, were a key part of Obama-era federal onshore leasing reforms that followed the controversial George W. Bush administration decision to issue 77 leases near Arches and Canyonlands national parks in Utah in 2008.

BLM has since approved, or is developing, nearly a dozen MLPs across millions of acres of public lands in Colorado, Utah and Wyoming.

And last year, BLM approved the Moab MLP — the first in Utah — that closed 145,000 acres of BLM lands near Arches and Canyonlands national parks to future mineral leasing, capped well densities on projects in sensitive areas, and placed "no surface occupancy" restrictions on about 306,000 acres "that are highly valued for scenery and recreation" (***E&E News PM***, Dec. 15, 2016).

"We ask that you continue to uphold the policies that were adopted following the 2008 lease sale in Utah," the letter says. "Those polices, which include the Master Leasing Plan policy, are protecting our national parks, while reducing conflicts with proposed oil and gas development."

Megan Crandall, a BLM spokeswoman, said the agency has placed work on MLPs "on pause" to review them but has not made any decisions about canceling MLPs in Utah or any other state.

BLM had been developing other MLPs in Utah, including the 524,854-acre San Rafael Desert MLP, which covers lands west of the city of Green River and south of Interstate 70. The agency last year also began work on the Cisco Desert MLP, covering about 320,000 acres northeast of Moab and extending to the Colorado border.

And Heather Swift, an Interior spokeswoman, defended Zinke, noting he "has said on numerous occasions he will not open energy exploration in national parks." She also said he has backed the Forest Service's efforts to withdraw areas in Montana's Paradise Valley in the Upper Yellowstone watershed from mineral development.

Regardless, the former NPS employees in the letter to Zinke express "concern for the alarming number of oil and gas proposals that are advancing next to national parks."

Among those signing the letter are Maureen Finnerty, former superintendent of Olympic and Everglades national parks; Philip Francis, former superintendent of the Blue Ridge Parkway; and Mark Butler, former superintendent of Joshua Tree National Park.

They cite as an example BLM's ongoing review of three parcels nominated by industry for an oil and gas lease sale in December that are near Utah's Dinosaur National Monument, a proposal that has drawn concern from NPS and Gov. Gary Herbert (R) (***Greenwire***, July 27).
The letter also mentions industry-nominated parcels near Zion National Park in southwest Utah, which BLM pulled from a scheduled September lease sale. BLM, however, has yet to determine whether it will pull them permanently or eventually return them to auction (***E&E News PM***, June 2).

BLM, they write, has also proposed lease sales "in close proximity" to the Capitol Reef National Park, Chaco Culture National Historical Park, Hovenweep National Monument and Fort Laramie National Historic Site.

"As former land managers, we understand the need to balance competing priorities," they write. "But we fear the pendulum is swinging too far to the side of development."

They also express concern about what they termed "broader efforts by the Interior Department to reduce protections for national parks in order to encourage oil and gas drilling."

That's an apparent reference to Zinke's recently completed review of dozens of national monuments to determine whether they should be eliminated or their boundaries should be adjusted. Zinke last week submitted a detailed report to President Trump, though the report has yet to be released to the public.

Those concerned that eliminating or adjusting the boundaries of national monuments could open them to energy development point to the Carrizo Plain and San Gabriel Mountains national monuments, both in California (***Greenwire***, Aug. 18).

A spokesman for the Independent Petroleum Association of America told E&E News last week that the group would like to see a more transparent process in areas "where a national monument area stops and Bureau of Land Management land begins" and that should be managed for multiple use (***Energywire***, Aug. 23).

"Our national parks are not meant to be islands in seas of development. For this reason, we ask that you avoid issuing any oil and gas leases near our national parks," the letter says.

"There are many other places on our public lands where industry can pursue oil and gas leasing without threatening the majestic scenery, wildlife, visitor experience, and dark night skies that make our national parks such special places," it says.

http://bit.ly/2wG8GEa

4. Zinke pushes for mining ban near park

Dylan Brown, E&E News reporter
Published: Tuesday, August 29, 2017

Interior Secretary Ryan Zinke has pledged whatever resources he can provide to speed up the federal review of a mining ban north of Yellowstone National Park.

The former Montana congressman supports a proposed 20-year mineral withdrawal on more than 30,000 acres of the Custer Gallatin National Forest in his home state.

Requests from two companies to explore for gold and other minerals in Park County have sparked a backlash from local businesses looking to protect a burgeoning recreation and tourism economy in an area where mining dates back to 1863 (***Greenwire***, Aug. 3, 2016).

Last year, the Obama administration imposed a two-year pause while the Forest Service reviews the longer ban. While the withdrawal would not affect existing mining claims, it would effectively block development of large-scale mines.

"The secretary supports protecting the Paradise Valley from mineral development," Interior spokeswoman Heather Swift said. "He believes the environmental review is an important part of the process, and in an effort to speed up the process, he is dedicating Department of the Interior resources to assist the U.S. Forest Service."

In a **letter** to Agriculture Secretary Sonny Perdue, who oversees the Forest Service, Zinke offered a Bureau of Land Management geologist and mineral examiner to expedite the National Environmental Policy Act review. The letter also requests expanding the withdrawal to include additional minerals like oil, gas, coal and phosphate but did not address the permanent ban, **S. 941**, proposed by Sen. Jon Tester (D-Mont.) (***E&E Daily***, July 27).

The Yellowstone Gateway Business Coalition hailed Zinke's leadership but urged support for the "Yellowstone Gateway Protection Act."

"We still need a permanent solution for our children, our businesses and our way of life," the group said in a statement.

Montana Republican Sen. Steve Daines has declined to support the bill, but a spokesman said Daines has urged Zinke and Perdue to make the review a "priority," reiterating that "this is not a suitable place for a mine."

Rep. Greg Gianforte (R-Mont.) also "supports a long-term moratorium on new mining claims that will help protect Paradise Valley's economy and way of life," a spokesman said. "And he will continue to work with the community for a permanent solution."

The mining industry, however, opposed the bill and withdrawal.

"A mineral withdrawal of the magnitude under analysis appears to be gross overreaction to two small proposed exploration projects," said Montana Mining Association Executive Director Tammy Johnson. "Mining activity has been present in the two historic mining districts for more than 100 years and has presented few, if any, significant environmental impacts."

Johnson and other industry groups have argued the existing regulatory framework can protect an area that was purposely left out of previous wilderness designations because of its mining potential.

"The idea that exploration and mining at Emigrant and Jardine is a threat to Yellowstone Park is not supported by the historical record or science, since both districts are downstream from the Park," the American Exploration & Mining Association wrote in **comments** to the Forest Service.

http://bit.ly/2wQzlJg

5. Mont. too late to influence Colstrip's future judge

Published: Tuesday, August 29, 2017

A Washington state administrative judge has shelved Montana's attempts to influence plans to retire two units at the coal-fired Colstrip Generating Station.

Judge Dennis Moss argued that most of Montana Attorney General Tim Fox's points were irrelevant and that Fox's expert witness was unqualified. And he said Fox's efforts are too late to make a difference.

The Republican attorney general had hoped to influence Washington utility Puget Sound Energy's plans for shutting down the two units at Colstrip, a four-unit power plant in southeast Montana and one of the largest coal-fired generation stations in the West.

Colstrip has been plagued by financial woes in recent years, and Montana lawmakers in April tentatively approved a $50 million plan to keep the facility fully operational (***Climatewire***, April 13; Tom Lutey, ***Billings Gazette***, Aug. 29). — **MJ**

http://bit.ly/2wHnyCg

6. Greens pounce after Colo. governor backs mine royalty drop

Dylan Brown, E&E News reporter

Published: Tuesday, August 29, 2017

Environmentalists are pressing Colorado Gov. John Hickenlooper to reverse his support for reducing royalties charged at a controversial coal mine.

In a **letter** Friday, the Democrat confirmed his support for reducing the royalty rate from 8 percent to 5 percent at the West Elk mine in the Gunnison National Forest of western Colorado.

The Bureau of Land Management estimates mine owner Arch Coal Inc. would save an estimated $8 million, roughly half of which would have gone to the state.

In justifying his position, Hickenlooper wrote, "If production from this federal coal seam does not occur at this time, local employment and revenues will be impacted."

The reduction, starting retroactively on Feb. 1, 2015, and lasting until Jan. 31, 2020, would apply only to coal mined near a split in the coal seam that has introduced ash and other impurities into the process.

Roughly one-third of coal produced during that five-year period — about 10.3 million tons — would come from the split area.

The company previously received a royalty reduction in 2010 when it built a wash plant, switched equipment and added roof supports at the mine.

"These nonstandard practices reduce productivity and increase operating costs," acting BLM Colorado Director Gregory Shoop wrote in his draft approval of the reduction.

While Hickenlooper argued the mine was too valuable to the local economy, he made his support contingent on Arch carrying through on its stated promise "to capture methane, and to explore ways to use the methane that would otherwise be vented."

Environmentalists question the governor's judgment concerning a mine considered to be Colorado's largest source of methane, a potent greenhouse gas (***Greenwire***, June 12).

"Talk is cheap, and Arch has done little for a decade but talk and vent billions of cubic feet of methane," said EarthJustice attorney Ted Zukoski.

"The state of Colorado can regulate this pollution. It did so with the oil and gas industry," he said, "and must do so for coal mine methane if Arch continues to filibuster."

Arch Coal did not respond to requests for comment.

The Institute for Energy Economics and Financial Analysis, a research group, put revenue losses closer to $12 million in arguing royalties should stay at current levels.

"It is a hard but true reality that many mines, including West Elk, need to close," IEEFA Director of Finance Tom Sanzillo wrote in a letter to Hickenlooper.

"Royalty income to the state might be best used at this time to assist with a rational plan for the phase-out of coal mining in Colorado," said Sanzillo, who has authored numerous reports critical of coal companies.

The Obama administration had proposed revisiting overall royalty rates, but the Trump administration ended the ongoing program review earlier this year (***E&E News PM***, March 29).

"BLM's proposal to reduce royalty payments at the West Elk mine fits with the Trump administration's agenda to push for more dirty coal," Zukoski said.

He estimates roughly half of the reduced-royalty coal has already been mined, which means that Arch fails to meet the standards of the Mineral Leasing Act.

The law allow for reductions "to promote development, or whenever in his judgment the leases cannot be successfully operated under the terms provided."

Zukoski filed a Freedom of Information Act request to find out exactly how much would be paid retroactively to Arch after Interior declined to provide him with that information. That process could take months.

"The agency may well decide whether or not to approve the rate cut before it decides whether or not to inform the public of the costs," he said.

http://bit.ly/2vC9KVW